IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R RAMACHANDRAN NAIR

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

WP(C).No. 28040 of 2007(K)

PETITIONER:

D.NELSON, AGED 57, RETIRED PROFESSOR,
RESIDING AT MATHA VIHAR, NANTHRICKAL,
VELLIMON P.O., PERINAD VILLAGE, KOLLAM TALUK,
KOLLAM DISTRICT.

BY ADV. SRI.JOHNSON GOMEZ

RESPONDENTS:
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1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, DEPARTMENT
OF HOME AFFAIRS, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE SUPERINTENDENT OF POLICE, KOLLAM.

3. THE SUB INSPECTOR OF POLICE, KUNDARA
POLICE STATION, KOLLAM.

4. S.L.SAJI KUMAR, DARSANA,
CHERUMOODU VELLIMON P.O.,
KOLLAM.

BY GOVERNMENT PLEADER SRI. P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 28040/2007 K

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE TAX RECEIPT DT. 16/2/2004 BY THE VILLAGE OFFICER, PERINAD VILLAGE.

EXT.P2. COPY OF THE JUDGMENT DT. 4TH JUNE, 2007 IN WPC NO. 16301/2007 BY THIS COURT.

EXT.P3. COPY OF THE COMPLAINT DT. 31/5/2007 SUBMITTED BY THE PETITIONER BEFORE THE R2.

RESPONDENT'S EXHIBITS **NIL.**

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K.BALAKRISHNAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

Writ Petition (C) No.28040 of 2007- K

Judgment

Balakrishnan Nair, J.

The petitioner is a retired Professor in Hindi. According to him, he is a public spirited citizen. When the Panchayat started construction to establish the statue of Veluthampi Dalava at Kundara in violation of the provisions of Section 220(b) of the Kerala Panchayat Raj Act, he moved this Court by filing WPC No.16301/07. The said Writ Petition was disposed of by Ext.P2 Judgment, recording the submission of the Panchayat that the construction is being undertaken, strictly in accordance with Section 220(b) of the above said Act. The petitioner submits, for the reason that he has approached this Court, the 4th respondent, who is the President of the Panchayat, is harbouring ill-will towards him. The petitioner is running a Tuition Centre in the name and style of "Desiya Hindi Vidyalaya". Now, the 4th respondent is threatening him, it is submitted. The President and the Secretary of the Panchayat are accused of having threatened to demolish the buildings in the property of the petitioner. According to him, they are trying to bodily harm and also defame him. So, he

has filed Ext.P3 petition before the Deputy Superintendent of Police and thereafter, this Writ Petition is filed, seeking the following reliefs :

> "a. to issue a writ of mandamus or any other appropriate writ, order or direction, compelling and commanding the second respondent and third respondent to afford adequate and effective police protection for the life of the petitioner and his family members against the threat of violence from the fourth respondent and his partymen.
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> b. to issue a writ of mandamus or any other appropriate writ, order or direction compelling and commanding the second respondent and third respondent to afford adequate and effective police protection for the residence of the petitioner and Educational Institution run by him in the premises named "Desiya Hindi Vidyalaya" against the threat of violence from the fourth respondent and his partymen.
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> c. to issue a writ of mandamus or any other appropriate writ, order or direction, compelling and commanding the second respondent to consider Ext.P3 complaint submitted by

the petitioner and to take appropriate action in accordance with law against the fourth respondent".

The learned Government Pleader upon instruction, submitted that the allegations of the petitioner are incorrect.

2. If the Panchayat or its officials are encroaching into the property of the petitioner, his remedy is to move the civil court. It is difficult to believe that the President and the Secretary of the Panchayat are physically threatening the petitioner. However, if there is any apprehension of physical violence against him, he may bring it to the notice of the third respondent. In that event, the said respondent will look into the same and if the said apprehension is found to be true, shall afford adequate protection to him.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR,JUDGE

27.09.2007 **T.R.RAMACHANDRAN NAIR, JUDGE**

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